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Applicants: Bruce Bradford Thomas and Lester Ware Preston, III

Title: Collateral Coverage for Insurers and Advisors

GAU: 3626

Trumbull, CT, March 14, 2006

Prior Art

Commissioner for Patents

PO Box 1450, Alexandria, VA 22313-1450

Dear Sir or Madame:

We found an example of prior art that we want to make the Patent Office aware of that bears directly on our patent claims. In his book entitled, "Business Interruption Insurance (A Survey of the Coverage of Business Interruption Losses Caused by Fire and Allied Hazards, Other than Marine)," published in Philadelphia in 1930, Clyde M. Kahler outlines the history of Business Interruption insurance. We have copied the pages from this book that are most relevant and included them with this letter for your review.

Kahler points out that there was no real need for commercial fire policies until after that advent of industrialization and large-scale manufacturing because there was no significant accumulation of goods in any single location, outside of the shipping business. He sites shipping policies as providing coverage for consequential losses as early as 1746. The earliest reference he was able to site for loss of use as a result of fire to a commercial enterprise outside of the shipping business is 1821.

By the mid-eighteen hundreds, it became clear that business interruption losses were significant, and different insurers attempted to cover these losses in various ways. In 1860 a "Chomage" policy was sold in France. This policy was first applied to provide salary protection to workers who were prevented from working as a result of a fire and was then extended to cover any type of business interruption loss.

The technique employed by the Chomage policy was similar to "Collateral Coverage for Insurers and Advisors" in that it paid for consequential losses and did this as a proportion of the fire policy loss payment. Although the concept of business interruption losses and the need for insurance to provide this type of coverage gained widespread support, Chomage insurance was discarded and discredited because it was obvious that the

business interruption loss was not directly proportionate to the amount of consequential loss as a result of a fire.

Instead of embracing Chomage, most insurers were opposed to the idea of covering losses that were so intangible in nature and refused to offer this coverage. It was not until the World War I that the insurance industry finally embraced business interruption insurance.

At which point, it set about to make this new risk insurable by developing definitions of business interruption and creating protocols for measuring and proving the extent of this type of loss. This process of defining, measuring, and proving was deemed to be successful in reducing the potential for introducing moral hazard, morale hazard, and adverse selection. Additionally, it improved the economic efficiency of business interruption insurance by eliminating the basis risk that was inherent in the Chomage policy, where the relationship between the loss and the payout was always uncertain.

Although Kahler indicates that there are great opportunities for expanding the use of business interruption coverage, he voices the accepted wisdom of the insurance industry by saying that a workable business interruption coverage will only be possible when it is done in the traditional way. "...Experience relating to business interruption insurance losses must be segregated, separately classified, and analyzed independently of the experience upon the direct damage insurance."

In general, we agree with Kahler's and the insurance industry's criticisms of Chomage. This methodology is not economical for losses that are easily definable, measurable, and provable and where there is an uncertain relationship between the underlying loss and the consequential losses that are sustained. However, the insurance industry has conveniently ignored or "deemed uninsurable" many types of consequential loss that do not meet these characteristics, and in fact, this technique produces great benefits to all parties for losses that are collateral to insurable losses but that are not easily definable, measurable, or provable.

Sincerely,

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